

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

TIMOTHY SANDERS,

Plaintiff,

vs.

MS. MINGO, *et al.*,

Defendants.

Case No. 2:11-cv-01398-PMP-GWF

**ORDER AND REPORT AND
RECOMMENDATION**

On December 9, 2011, the Court granted Plaintiff's Application to Proceed in Forma Pauperis and ordered Plaintiff to file a motion identifying Defendant Mingo for the purpose of service. *See* Order (#7). Defendant Mingo is the only Defendant that survived screening. Plaintiff then file another Application to Proceed in Forma Pauperis (#9) on December 28, 2011. Plaintiff was already granted in forma pauperis status, and therefore Plaintiff's second Application (#9) is moot. Further, over eight months has passed and Plaintiff has failed to file a motion with the Court identifying Defendant Mingo for the purpose of service. The Court will therefore recommend Plaintiff's Complaint (#8) be dismissed with prejudice for failure to comply with the Court's Order (#7) and failure to prosecute this matter. Accordingly,

IT IS HEREBY ORDERED that Plaintiff's Application to Proceed in Forma Pauperis (#9) is **denied** as moot.

RECOMMENDATION

IT IS HEREBY RECOMMENDED that Plaintiff's Complaint (#8) be **dismissed** with prejudice for failure to comply with the Court's Order (#7) and failure to prosecute this matter.

...

NOTICE

Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be in writing and filed with the Clerk of the Court within fourteen (14) days. The Supreme Court has held that the courts of appeal may determine that an appeal has been waived due to the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1) failure to file objections within the specified time and (2) failure to properly address and brief the objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

DATED this 6th day of September, 2012.



GEORGE FOLEY, JR.
United States Magistrate Judge